



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R09-OAR-2021-0543; FRL-8846-02-R9]

Clean Air Plans; California; San Joaquin Valley Moderate Area Plan and Reclassification as Serious Nonattainment for the 2012 PM_{2.5} NAAQS; Contingency Measures for the 2006

PM_{2.5} NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action on all or portions of four state implementation plan (SIP) revisions submitted by California (“State”) to address Clean Air Act (CAA or “Act”) requirements for the 2012 fine particulate matter (“PM_{2.5}”) national ambient air quality standards (NAAQS or “standards”) and for the 2006 PM_{2.5} NAAQS in the San Joaquin Valley (SJV) PM_{2.5} nonattainment area. Specifically, the EPA is approving all but the contingency measure element of the submitted “Moderate” area plan for the 2012 PM_{2.5} NAAQS, as updated by the submitted “Serious” area plan and related supplement to the State strategy, as meeting all applicable Moderate area plan requirements for the 2012 PM_{2.5} NAAQS. In addition, the EPA is approving 2022 motor vehicle emissions budgets for use in transportation conformity analyses for the 2012 PM_{2.5} NAAQS. The EPA is disapproving the contingency measure element with respect to the Moderate area requirements for the 2012 PM_{2.5} NAAQS. The EPA is also reclassifying the SJV PM_{2.5} nonattainment area, including reservation areas of Indian country and any other area of Indian country within it where the EPA or a tribe has demonstrated that the tribe has jurisdiction, as a Serious nonattainment area for the 2012 PM_{2.5} NAAQS based on the EPA’s determination that the area cannot practicably attain the standard by the applicable Moderate area attainment date of December 31, 2021. As a consequence of this reclassification, California is required to submit a Serious area plan for the

area that includes a demonstration of attainment by the applicable Serious area attainment date, which is no later than December 31, 2025, or by the most expeditious alternative date practicable. However, we note that California has already submitted such Serious area plan, which the EPA will address in a separate rulemaking. Lastly, the EPA is disapproving the contingency measure element in the Serious area plan for the 2006 PM_{2.5} NAAQS.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2021-0543. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

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SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

Table of Contents

I. Background

II. Public Comments and EPA Responses

III. Final Action

A. Approval of the Moderate Area Planning Requirements for the 2012 PM_{2.5} NAAQS

- (except the Contingency Measure Element)
 - B. Disapproval of the Contingency Measure Elements for the 2006 and 2012 PM_{2.5} NAAQS
 - C. Reclassification as Serious Nonattainment and Applicable Attainment Date for the 2012 PM_{2.5} NAAQS
 - D. Reclassification of Reservation Areas of Indian Country for the 2012 PM_{2.5} NAAQS
 - E. PM_{2.5} Serious Area SIP Requirements for the 2012 PM_{2.5} NAAQS
- IV. Statutory and Executive Order Reviews

I. Background

Epidemiological studies have shown statistically significant correlations between elevated levels of PM_{2.5} (particulate matter with a diameter of 2.5 microns or less) and premature mortality. Other important health effects associated with PM_{2.5} exposure include aggravation of respiratory and cardiovascular disease, changes in lung function, and increased respiratory symptoms. Individuals particularly sensitive to PM_{2.5} exposure include older adults, people with heart and lung disease, and children.¹ PM_{2.5} can be emitted directly into the atmosphere as a solid or liquid particle (“primary PM_{2.5}” or “direct PM_{2.5}”) or can be formed in the atmosphere as a result of various chemical reactions among precursor pollutants such as nitrogen oxides (NO_x), sulfur oxides, volatile organic compounds, and ammonia (“secondary PM_{2.5}”).²

The EPA first established annual and 24-hour NAAQS for PM_{2.5} on July 18, 1997.³ The annual standard was set at 15.0 micrograms per cubic meter (µg/m³) based on a 3-year average of annual mean PM_{2.5} concentrations, and the 24-hour (daily) standard was set at 65 µg/m³ based on the 3-year average of the annual 98th percentile values of 24-hour PM_{2.5} concentrations at each monitor within an area. We refer to these standards as the “1997 PM_{2.5} NAAQS.” On October 17, 2006, the EPA revised the level of the 24-hour PM_{2.5} NAAQS to 35 µg/m³ based on a 3-year average of the annual 98th percentile values of 24-hour concentrations.⁴ We refer to this standard as the “2006 PM_{2.5} NAAQS.” On January 15, 2013, the EPA revised the annual standard to 12.0 µg/m³ based on a 3-year average of annual mean PM_{2.5} concentrations.⁵ We

¹ 78 FR 3086, 3088 (January 15, 2013).

² EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P-99/002aF and EPA/600/P-99/002bF, October 2004.

³ 62 FR 38652 (codified at 40 CFR 50.7).

⁴ 71 FR 61144 (codified at 40 CFR 50.13).

⁵ 78 FR 3086 (codified at 40 CFR 50.18).

refer to this standard as the “2012 PM_{2.5} NAAQS.”

Following promulgation of a new or revised NAAQS, the EPA is required by CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. On January 15, 2015, the EPA designated and classified the SJV as Moderate nonattainment for the 2012 PM_{2.5} NAAQS.⁶ With respect to the 1997 PM_{2.5} NAAQS and the 2006 PM_{2.5} NAAQS, the SJV is designated nonattainment and is classified as Serious.⁷ The SJV PM_{2.5} nonattainment area encompasses over 23,000 square miles and includes all or part of eight counties: San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, and the valley portion of Kern.⁸ The area is home to four million people and is the nation’s leading agricultural region. Stretching over 250 miles from north to south and averaging 80 miles wide, it is partially enclosed by the Coast Mountain range to the west, the Tehachapi Mountains to the south, and the Sierra Nevada range to the east.

Under State law, the San Joaquin Valley Unified Air Pollution Control District (SVUAPCD or “District”) has primary responsibility for developing plans to provide for attainment of the NAAQS in this area. The District works cooperatively with the California Air Resources Board (CARB) in preparing these plans. Authority for regulating sources under State jurisdiction in the SJV is split between the District, which has responsibility for regulating stationary and most area sources, and CARB, which has responsibility for regulating most mobile sources and some categories of consumer products. CARB is also responsible for adoption and submittal to the EPA of the California SIP, which includes, among other things, regional air quality plans. Under CAA section 110(k), the EPA is obligated to approve or disapprove SIPs and SIP revisions as meeting or failing to meet CAA requirements.

On September 1, 2021, we proposed to approve or disapprove all or portions of SIP revisions submitted by CARB to address CAA requirements for the PM_{2.5} NAAQS in the SJV

⁶ 80 FR 2206 (codified at 40 CFR 81.305).

⁷ See the tables of area designations for the 1997 and 2006 PM_{2.5} NAAQS in 40 CFR 81.305.

⁸ For a precise description of the geographic boundaries of the SJV PM_{2.5} nonattainment area, see 40 CFR 81.305.

nonattainment area.⁹ Herein, we refer to our proposed rule published on September 1, 2021, as the “proposed rule,” “proposal” or “proposed action.” On May 10, 2019, CARB made two SIP submissions intended to address the attainment plan requirements for areas designated as nonattainment for the 2012 PM_{2.5} NAAQS.¹⁰ First, the “2016 Moderate Area Plan for the 2012 PM_{2.5} Standard” (“2016 PM_{2.5} Plan”) addresses the Moderate area attainment plan requirements and includes a demonstration of impracticability of attaining the 2012 PM_{2.5} NAAQS in the SJV by the latest permissible Moderate area attainment date of December 31, 2021. In our proposal, the EPA proposed action on all portions of the 2016 PM_{2.5} Plan. Second, the “2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards” (“2018 PM_{2.5} Plan”) addresses the Serious area attainment plan requirements for the 2012 PM_{2.5} NAAQS, in anticipation of the reclassification of SJV from Moderate to Serious for that PM_{2.5} NAAQS. The 2018 PM_{2.5} Plan updates several elements in the 2016 PM_{2.5} Plan, including the base year emissions inventory, plan precursor demonstration, controls analysis, reasonable further progress (RFP) and quantitative milestones, and motor vehicle emission budgets (MVEBs or “budgets”).

Additionally, the 2018 PM_{2.5} Plan incorporates by reference the “San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan” (“Valley State SIP Strategy”), a related plan adopted by CARB on October 25, 2018, and submitted to the EPA on May 10, 2019, with the 2018 PM_{2.5} Plan. For the purposes of this action, the relevant portion of the Valley State SIP Strategy includes the control measure commitments associated with the quantitative milestones for 2019 and 2022. Lastly, with respect to applicable requirements for contingency measures for the 2012 PM_{2.5} NAAQS and 2006 PM_{2.5} NAAQS, we evaluated the contingency measure elements of the 2016 PM_{2.5} Plan and 2018 PM_{2.5} Plan as supplemented by the July 19, 2019 submittal of a SIP revision that includes a contingency provision (section 5.7.3) in the SJVUAPCD’s rule (Rule 4901) limiting emissions from wood burning fireplaces, wood

⁹ 86 FR 49100.

¹⁰ CARB submitted the two plans electronically on May 10, 2019, as an attachment to a letter dated May 9, 2019, from Richard W. Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX.

burning heaters, and outdoor wood burning devices.

In this document, the EPA is finalizing action on the 2016 PM_{2.5} Plan and those portions of the 2018 PM_{2.5} Plan that apply to the Moderate area plan requirements for the 2012 PM_{2.5} NAAQS. However, the EPA is not, at this time, acting on those portions of the 2018 PM_{2.5} Plan that are not relevant to our evaluation of compliance with Moderate area plan requirements for 2012 PM_{2.5} NAAQS, such as the best available control measures (BACM) demonstration, control strategy commitments, attainment demonstration, RFP demonstration and quantitative milestones for later years, and MVEBs for later years. In our proposal, we also proposed action on the portion of the 2018 PM_{2.5} Plan that addresses the contingency measure requirement for the 2006 PM_{2.5} NAAQS, and we are taking final action on the contingency measure element for the 2006 PM_{2.5} NAAQS in this document. For more information about these submittals, please see our proposed rule.

As part of our proposed action, we proposed to approve the following elements of the 2016 PM_{2.5} Plan and 2018 PM_{2.5} Plan as meeting the statutory and regulatory Moderate area requirements for the 2012 PM_{2.5} NAAQS in the SJV nonattainment area: the 2013 base year emissions inventories in the 2016 PM_{2.5} Plan, as revised in the 2018 PM_{2.5} Plan; the reasonably available control measures (RACM)/reasonably available control technology demonstration and additional reasonable measures for all sources of direct PM_{2.5} and NO_x in the 2016 PM_{2.5} Plan, as supplemented in the 2018 PM_{2.5} Plan; the demonstration in the 2016 PM_{2.5} Plan that attainment by the Moderate area attainment date of December 31, 2021, is impracticable; the RFP demonstration in the 2016 PM_{2.5} Plan, as revised in 2018 PM_{2.5} Plan; the quantitative milestones in the 2016 PM_{2.5} Plan, as revised in the 2018 PM_{2.5} Plan and the Valley State SIP Strategy; and the motor vehicle emissions budgets for 2022 in the 2018 PM_{2.5} Plan.¹¹

¹¹ With respect to the budgets, we proposed to limit the duration of the approval of the budgets to last only until the effective date of the EPA's adequacy finding for any subsequently submitted budgets. We proposed to do so at CARB's request and in light of the benefits of using EMFAC2017-derived budgets prior to our taking final action on the future SIP revision that includes the updated budgets. EMFAC2017 is a version of CARB's EMFAC (short for Emission FACTor) model for use in SIP development and transportation conformity.

In support of our proposed approval of the above SIP elements, we proposed to approve the demonstrations in the 2016 PM_{2.5} Plan and the 2018 PM_{2.5} Plan that emissions of ammonia, sulfur oxides, and volatile organic compounds do not contribute significantly to ambient PM_{2.5} levels that exceed the 2012 PM_{2.5} NAAQS in the SJV. We also found that the photochemical modeling in the 2016 PM_{2.5} Plan and 2018 PM_{2.5} Plan is adequate for the purposes of supporting the RFP demonstration and the demonstration of impracticability in the 2016 PM_{2.5} Plan.

The EPA also proposed to disapprove contingency measure elements because, among other reasons, the elements include no specific measures to be undertaken if the State fails to submit a quantitative milestone report for the area, or if the area fails to meet RFP or a quantitative milestone. Specifically, the proposed disapprovals apply to the 2016 PM_{2.5} Plan for the 2012 PM_{2.5} NAAQS, as revised in the 2018 PM_{2.5} Plan and supplemented by section 5.7.3 of District Rule 4901 (“Wood Burning Fireplaces and Wood Burning Heaters”),¹² and the contingency measure element of the 2018 PM_{2.5} Plan for the 2006 PM_{2.5} NAAQS, as supplemented by section 5.7.3 of District Rule 4901. In addition, with respect to the contingency measure element in the 2018 PM_{2.5} Plan for the 2006 PM_{2.5} NAAQS, as supplemented by section 5.7.3 of District Rule 4901, the element includes a specific measure that may not result in any emissions reductions following a failure to attain the 2006 PM_{2.5} NAAQS by the applicable attainment date under certain circumstances.

Because the EPA previously approved the Serious area plan RFP and attainment demonstrations and the MVEBs for the 2006 PM_{2.5} NAAQS,¹³ and because we proposed to approve the Moderate area plan RACM, additional reasonable measures, and RFP demonstrations, and MVEBs for the 2012 PM_{2.5} NAAQS, we also proposed to issue a protective

¹² As explained in our proposed rule, the EPA has taken final action to approve District Rule 4901 (including section 5.7.3), but in that approval, we noted that we were not evaluating the contingency measure in section 5.7.3 of revised Rule 4901 for compliance with all requirements of the CAA and the EPA’s implementing regulations that apply to such measures. See 86 FR 49132-49134. In this action, we have completed our evaluation and are disapproving section 5.7.3 of Rule 4901 with respect to applicable contingency measure requirements for the 2006 and 2012 PM_{2.5} NAAQS.

¹³ 85 FR 44192.

finding under 40 CFR 93.120(a)(3) to the disapproval of the contingency measures elements. As explained in our proposed rule, without a protective finding, the final disapprovals would result in a conformity freeze, under which only projects in the first four years of the most recent conforming Regional Transportation Plan (RTP) and Transportation Improvement Programs (TIP) can proceed. Generally, during a freeze, no new RTPs, TIPs, or RTP/TIP amendments can be found to conform until another control strategy implementation plan revision fulfilling the same CAA requirements is submitted, the EPA finds its motor vehicle emissions budget(s) adequate pursuant to section 93.118 or approves the submission, and conformity to the implementation plan revision is determined.¹⁴ Under a protective finding, the final disapproval of the contingency measures elements will not result in a transportation conformity freeze in the SJV PM_{2.5} nonattainment area and the metropolitan planning organizations (MPOs) may continue to make transportation conformity determinations.

Lastly, we proposed to reclassify the SJV PM_{2.5} nonattainment area, including reservation areas of Indian country and any other area where the EPA or a tribe has demonstrated that a tribe has jurisdiction within the SJV, as Serious nonattainment for the 2012 PM_{2.5} standard based on the agency's determination that the SJV cannot practicably attain the standard by the Moderate area attainment date of December 31, 2021.

With respect to reclassification, in the proposed rule, we explained that under section 188(c)(2) of the Act, the attainment date for a Serious area "shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment...." The EPA designated the SJV as nonattainment for the 2012 PM_{2.5} standard effective April 15, 2015.¹⁵ Therefore, as a result of our reclassification of the SJV as a Serious nonattainment area, the attainment date under section 188(c)(2) of the Act for the 2012 PM_{2.5} NAAQS in this area is as expeditiously as practicable but no later than December 31,

¹⁴ 40 CFR 93.120(a)(2).

¹⁵ 80 FR 2206 (codified at 40 CFR 81.305).

2025.

Our proposed rule also identified the Serious area attainment plan elements that California would, upon reclassification, have to submit to satisfy the statutory requirements that apply to Serious areas, including the requirements of subpart 4 of part D, title I of the Act. The EPA explained that under section 189(b)(2) of the Act, the state must submit the required provisions to implement BACM, including best available control technology (BACT),¹⁶ no later than 18 months after reclassification. Because an up-to-date emissions inventory serves as the foundation for a state's BACM and BACT determinations, the EPA proposed to also require the State to submit the emissions inventory required under CAA section 172(c)(3) within 18 months after the effective date of final reclassification. Similarly, because an effective evaluation of BACM and BACT requires evaluation of the precursor pollutants that must be controlled to provide for expeditious attainment in the area, the EPA proposed to require the State to submit any optional precursor insignificance demonstrations by this same date. The EPA also proposed an 18-month deadline for submittal of any nonattainment new source review (NNSR) SIP revisions required to satisfy the requirements of CAA sections 189(b)(3) and 189(e).

The EPA proposed to require the State to submit the attainment demonstration required under section 189(b)(1)(A) and all other attainment-related plan elements for the SJV nonattainment area no later the end of the eighth calendar year after designation – i.e., by December 31, 2023. We noted that although section 189(b)(2) generally provides for up to four years after a discretionary reclassification for the state to submit the required attainment demonstration, given the timing of the reclassification action less than two years before the Moderate area attainment date, it is appropriate in this case for the EPA to establish an earlier SIP submission deadline to assure timely implementation of the statutory requirements.

¹⁶ The EPA defines BACM as, among other things, the maximum degree of emissions reduction achievable for a source or source category, which is determined on a case-by-case basis considering energy, environmental, and economic impacts. 59 FR 41998, 42010 and 42014 (August 16, 1994). BACM must be implemented for all categories of sources in a Serious PM_{2.5} nonattainment area unless the state adequately demonstrates that a particular source category does not contribute significantly to nonattainment of the PM_{2.5} standard. Id. at 42011-42012.

The EPA also noted in our proposed rule that the 2018 PM_{2.5} Plan, submitted concurrently with the 2016 PM_{2.5} Plan on May 10, 2019, includes a Serious area attainment demonstration, emissions inventory, attainment-related plan elements, and BACM and BACT provisions. CARB also submitted a SIP submission for the Serious area NNSR requirements on November 20, 2019. The EPA intends to evaluate and act on the Serious area plan and NNSR SIP submissions for the 2012 PM_{2.5} NAAQS in the SJV through separate rulemakings, as appropriate.¹⁷

Please see our September 1, 2021 proposed rule for additional background and a more detailed explanation of the rationale for our proposed actions.

II. Public Comments and EPA Responses

The EPA's proposed rule provided a 30-day public comment period that ended on October 1, 2021. During this period, the EPA did not receive any comments.

III. Final Action

A. Approval of the Moderate Area Planning Requirements for the 2012 PM_{2.5} NAAQS (except the Contingency Measure Element)

For the reasons discussed in detail in the proposed rule and summarized herein, under CAA section 110(k)(3), the EPA is taking final action to approve the following elements of the 2016 PM_{2.5} Plan and 2018 PM_{2.5} Plan as meeting the Moderate area requirements for the 2012 PM_{2.5} NAAQS:

- the 2013 base year emissions inventories in the 2016 PM_{2.5} Plan, as revised in the 2018 PM_{2.5} Plan, as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.1008(a);
- the reasonably available control measures/reasonably available control technology demonstration and additional reasonable measures for all sources of direct PM_{2.5} and

¹⁷ We are establishing deadlines for submittal of SIP revisions that have already been submitted to timely address any elements that may be withdrawn in the future.

NO_x in the 2016 PM_{2.5} Plan, as supplemented in the 2018 PM_{2.5} Plan, as meeting the requirements of CAA sections 172(c)(1) and 189(a)(1)(C) and 40 CFR 51.1009;

- the demonstration in the 2016 PM_{2.5} Plan that attainment by the Moderate area attainment date of December 31, 2021, is impracticable as meeting the requirements of CAA section 189(a)(1)(B)(ii) and 40 CFR 51.1011(a);
- the reasonable further progress demonstration in the 2016 PM_{2.5} Plan, as revised in 2018 PM_{2.5} Plan, as meeting the requirements of CAA section 172(c)(2) and 40 CFR 51.1012(a);
- the quantitative milestones in the 2016 PM_{2.5} Plan, as revised in the 2018 PM_{2.5} Plan and the Valley State SIP Strategy, as meeting the requirements of CAA section 189(c) and 40 CFR 51.1013(a)(1); and
- the following motor vehicle emissions budgets for 2022 in the 2018 PM_{2.5} Plan as meeting the requirements of CAA section 176(c) and 40 CFR part 93, subpart A:¹⁸

2022 San Joaquin Valley MVEBs for the 2012 PM _{2.5} NAAQS (annual average, tpd)		
County	2022 (post-attainment year)	
	PM _{2.5}	NO _x
Fresno	0.9	21.2
Kern (San Joaquin Valley portion)	0.8	19.4
Kings	0.2	4.1
Madera	0.2	3.5
Merced	0.3	7.6
San Joaquin	0.6	10.0
Stanislaus	0.4	8.1
Tulare	0.4	6.9

Source: 2018 PM_{2.5} Plan, App. D, Table 3-3. Budgets are rounded up to the nearest tenth.

With respect to the budgets, we are limiting the duration of our approval of the budgets to last only until the effective date of the EPA's adequacy finding for any subsequently submitted budgets. Also, we are approving the 6.5:1 NO_x for PM_{2.5} trading mechanism as an enforceable component of the transportation conformity program for the SJV for the 2012 PM_{2.5} NAAQS.

¹⁸ The budgets that the EPA is approving relate to the 2012 PM_{2.5} NAAQS only, and our approval does not affect the status of the previously-approved MVEBs for the 1997 annual and 24-hour PM_{2.5} NAAQS and 2006 PM_{2.5} NAAQS and related trading mechanisms that remain in effect for those PM_{2.5} NAAQS.

Furthermore, we are determining that the submitted 2022 budgets included in the 2018 PM_{2.5} Plan for the 2012 PM_{2.5} NAAQS are adequate for transportation conformity purposes.¹⁹

B. Disapproval of the Contingency Measure Elements for the 2006 and 2012 PM_{2.5} NAAQS

Pursuant to CAA section 110(k)(3), the EPA is finalizing disapproval of the contingency measure elements for failure to meet the requirements of CAA section 172(c)(9) and 40 CFR 51.1014. The disapproved elements are for the 2016 PM_{2.5} Plan for the 2012 PM_{2.5} NAAQS, as revised in the 2018 PM_{2.5} Plan and supplemented by section 5.7.3 of District Rule 4901, and the contingency measure element of the 2018 PM_{2.5} Plan for the 2006 PM_{2.5} NAAQS, as supplemented by section 5.7.3 of District Rule 4901.

As a consequence of our disapproval, the offset sanction in CAA section 179(b)(2) will apply in the SJV 18 months after the effective date of our action, and the highway funding sanctions in CAA section 179(b)(1) will apply in the area six months after the offset sanction is imposed.²⁰ Neither sanction will be imposed under the CAA if the State submits and we approve, prior to the implementation of the sanctions, a SIP revision that corrects the deficiencies that we identify in our final action. The EPA intends to work with CARB and the SJVUAPCD to correct the deficiencies in a timely manner. As noted in our proposed rule, the EPA is already subject to a statutory deadline to promulgate a federal implementation plan to address the contingency measure requirements for San Joaquin Valley for the 2006 PM_{2.5} NAAQS and 2012 PM_{2.5} NAAQS due to the prior finding that California had failed to submit SIP revisions to address those requirements within the prescribed periods.²¹

The EPA is also finalizing our issuance of a protective finding under 40 CFR 93.120(a)(3) to the disapproval of the contingency measure elements. Under a protective finding, the final disapproval of the contingency measures elements will not result in a transportation

¹⁹ Pursuant to 40 CFR 93.118(f)(2)(iii), the EPA's adequacy determination is effective upon publication of this final rule in the *Federal Register*.

²⁰ 40 CFR 52.31.

²¹ 83 FR 62720 (December 6, 2018) (Finding of failure to submit certain PM_{2.5} SIP revisions for San Joaquin Valley). Also, see the proposed rule at 49135.

conformity freeze in the SJV PM_{2.5} nonattainment area and the MPOs may continue to make transportation conformity determinations.

C. Reclassification as Serious Nonattainment and Applicable Attainment Date for the 2012 PM_{2.5} NAAQS

In accordance with section 188(b)(1) of the Act, the EPA is taking final action to reclassify the SJV PM_{2.5} nonattainment area from Moderate to Serious nonattainment for the 2012 PM_{2.5} standard, based on the agency's determination that the SJV cannot practicably attain the standard by the Moderate area attainment date of December 31, 2021. Pursuant to section 188(c)(2) of the Act, the applicable attainment date for SJV as a Serious nonattainment area for the 2012 PM_{2.5} NAAQS is as expeditiously as practicable but no later than December 31, 2025, or by the most expeditious alternative date practicable and no later than December 31, 2030, in accordance with the requirements of CAA sections 189(b) and 188(e).

D. Reclassification of Reservation Areas of Indian Country for the 2012 PM_{2.5} NAAQS

When the SJV nonattainment area was designated nonattainment for the 2012 PM_{2.5} NAAQS, eight Indian tribes were located within the boundaries of the nonattainment area. These tribes include Big Sandy Rancheria of Western Mono Indians of California, Cold Springs Rancheria of Mono Indians of California, Northfork Rancheria of Mono Indians of California, Picayune Rancheria of Chukchansi Indians of California, Santa Rosa Indian Community of the Santa Rosa Rancheria, California, Table Mountain Rancheria, Tejon Indian Tribe, and Tule River Indian Tribe of the Tule River Reservation, California.

We have considered the relevance of our final action to reclassify the SJV nonattainment area as Serious nonattainment for the 2012 PM_{2.5} standard for each tribe located within the SJV nonattainment area. As discussed in more detail in our proposed rule, we believe that the same facts and circumstances that support the reclassification for the non-Indian country lands also

support reclassification for reservation areas of Indian country²² and any other areas of Indian country where the EPA or a tribe has demonstrated that the tribe has jurisdiction located within the SJV nonattainment area.²³ In this final action, the EPA is therefore exercising its authority under CAA section 188(b)(1) to reclassify reservation areas of Indian country and any other areas of Indian country where the EPA or a tribe has demonstrated that the tribe has jurisdiction geographically located in the SJV nonattainment area to Serious for the 2012 PM_{2.5} NAAQS. The EPA contacted tribal officials early in the process of developing this action to provide time for tribal officials to have meaningful and timely input into its development.²⁴ We notified tribal officials when the proposed action published in the *Federal Register* and continue to invite Indian tribes in the SJV nonattainment area to contact the EPA with any questions about the effects of this reclassification on tribal interests and air quality. We note that although eligible tribes may seek the EPA's approval of relevant tribal programs under the CAA, none of the affected tribes will be required to submit an implementation plan as a result of this reclassification.

E. PM_{2.5} Serious Area SIP Requirements for the 2012 PM_{2.5} NAAQS

As a consequence of our reclassification of the SJV nonattainment area as a Serious nonattainment area for the 2012 PM_{2.5} NAAQS, California is required to submit, within 18 months after the effective date of the reclassification, an emissions inventory, provisions to assure that BACM shall be implemented no later than four years after the date of reclassification, and any NNSR SIP revisions required to satisfy the requirements of CAA sections 189(b)(3) and

²² "Indian country" as defined at 18 U.S.C. 1151 refers to "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same."

²³ 85 FR 40026, 40055-40056.

²⁴ As discussed in more detail in our proposed rule, the EPA sent letters dated March 3, 2021, to tribal officials inviting government-to-government consultation. These letters can be found in the docket. See also a summary of the EPA's outreach to tribes in the San Joaquin Valley; memorandum dated August 3, 2021, from Rory Mays, Air Planning Office, Air and Radiation Division, EPA Region IX, to Docket No. EPA-R09-OAR-2021-0543. We did not receive any request for consultation.

189(e). California will also be required to submit, by December 31, 2023, a Serious area plan that satisfies the requirements of part D of title I of the Act. This plan must include a demonstration that the SJV will attain the 2012 PM_{2.5} standard as expeditiously as practicable but no later than December 31, 2025, or by the most expeditious alternative date practicable and no later than December 31, 2030, in accordance with the requirements of CAA sections 189(b) and 188(e). The Serious area must also include plan provisions that require RFP; quantitative milestones that are to be achieved every three years until the area is redesignated attainment and that demonstrate RFP toward attainment by the applicable date; provisions to assure that control requirements applicable to major stationary sources of PM_{2.5} also apply to major stationary sources of PM_{2.5} precursors, except where the state demonstrates to the EPA's satisfaction that such sources do not contribute significantly to PM_{2.5} levels that exceed the standard in the area; and contingency measures to be implemented if the area fails to meet RFP or to attain by the applicable attainment date.

We note that the 2018 PM_{2.5} Plan, submitted concurrently with the 2016 PM_{2.5} Plan on May 10, 2019, includes a Serious area attainment demonstration, emissions inventory, attainment-related plan elements, and BACM/BACT provisions for the 2012 PM_{2.5} NAAQS. CARB also submitted a SIP submission for the Serious area NNSR requirements on November 20, 2019. The EPA intends to evaluate and act on the Serious area plan and NNSR SIP submissions for the 2012 PM_{2.5} NAAQS in the SJV through separate rulemakings, as appropriate.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the

Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by State law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action would approve or disapprove State plans as meeting federal requirements and would not impose additional requirements beyond those imposed by State law. Additionally, this action reclassifies the SJV nonattainment area as Serious nonattainment for the 2012 PM_{2.5} NAAQS and does not itself regulate small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by State law. Additionally, this action reclassifies the SJV nonattainment area as Serious nonattainment for the 2012 PM_{2.5} NAAQS and would not itself impose any federal intergovernmental mandate. This action does not require any tribe to submit implementation plans.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination with Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of

regulatory policies that have tribal implications.” “Policies that have Tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the federal government and the Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian Tribes.”

Eight Indian tribes are located within the boundaries of the SJV nonattainment area for the 2012 PM_{2.5} NAAQS: The Big Sandy Rancheria of Western Mono Indians of California, the Cold Springs Rancheria of Mono Indians of California, the Northfork Rancheria of Mono Indians of California, the Picayune Rancheria of Chukchansi Indians of California, the Santa Rosa Indian Community of the Santa Rosa Rancheria, California, the Table Mountain Rancheria, the Tejon Indian Tribe, and the Tule River Indian Tribe of the Tule River Reservation, California.

The EPA’s actions on the SIP elements submitted by California to address the Moderate area requirements for the 2012 PM_{2.5} NAAQS and the contingency measure requirement for the 2006 PM_{2.5} NAAQS do not have tribal implications because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the actions on the SIP submittals do not have tribal implications and do not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175.

The EPA has concluded that the reclassification might have tribal implications for the purposes of Executive Order 13175 but does not impose substantial direct costs upon the tribes, nor would it preempt tribal law. The reclassification from Moderate to Serious for a PM_{2.5} NAAQS would typically affect the EPA’s implementation of the new source review program because of the lower “major source” threshold triggered by reclassification (70 tons per year for direct PM_{2.5} and precursors to PM_{2.5}). However, because the SJV nonattainment area is already classified as Serious for the 1997 and 2006 PM_{2.5} NAAQS, the lower thresholds already apply

within the nonattainment area, and the reclassification from Moderate to Serious for the 2012 PM_{2.5} NAAQS has no additional effect. The same is true for any tribal projects that require federal permits, approvals, or funding. Such projects are subject to the requirements of the EPA's general conformity rule, and federal permits, approvals, or funding for the projects would typically become more difficult to obtain because of the lower de minimis thresholds triggered by reclassification but, in this case, the lower de minimis thresholds already apply within the SJV.

Given the potential implications, the EPA contacted tribal officials during the process of developing the September 1, 2021 proposed rule to provide an opportunity to have meaningful and timely input into its development. On March 3, 2021, we sent letters to leaders of the eight tribes with areas of Indian country in the SJV nonattainment area inviting government-to-government consultation on the rulemaking effort. We requested that the tribal leaders, or their designated consultation representatives, notify us of their interest in government-to-government consultation by April 5, 2021. We did not receive any request for consultation, and we did not receive any public comments on our proposed action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it approves or disapproves State plans implementing a federal standard and reclassifies the SJV nonattainment area as Serious nonattainment for the 2012 PM_{2.5} NAAQS, triggering Serious area planning requirements under the CAA. This action does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA has determined that this action will not have potential disproportionately high and adverse human health or environmental effects on minority or low-income populations because they do not affect the level of protection provided to human health or the environment. This action approves or disapproves State plans implementing a federal standard and reclassifies the SJV nonattainment area as Serious nonattainment for the 2012 PM_{2.5} NAAQS, triggering additional Serious area planning requirements under the CAA.

K. Congressional Review Act (CRA)

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, Particulate matter.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 17, 2021.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

For the reasons started in the preamble, the EPA amends Chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(537)(ii)(A)(7) and (c)(537)(ii)(B)(3) and (4) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(537) * * *

(ii) * * *

(A) * * *

(7) “Appendix H, RFP, Quantitative Milestones, and Contingency, 2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards, Appendix H Revised February 11, 2020” (portions pertaining to the 2012 PM_{2.5} NAAQS as a Moderate area, only, and excluding section H.3 (“Contingency Measures”)).

(B) * * *

(3) 2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards (“2018 PM_{2.5} Plan”), adopted November 15, 2018 (portions pertaining to the 2012 PM_{2.5} NAAQS as a Moderate area, only, and excluding Chapter 5 (“Demonstration of Federal Requirements for 1997 PM_{2.5} Standards”), Chapter 6 (“Demonstration of Federal Requirements for 2006 PM_{2.5} Standards”) and Appendix H, section H.3 (“Contingency Measures”)).

(4) 2016 Moderate Area Plan for the 2012 PM_{2.5} Standard (“2016 PM_{2.5} Plan”), adopted September 15, 2016, excluding section 3.7 (“Contingency Measures”).

* * * * *

3. Section 52.237 is amended by adding paragraphs (a)(9) and (10) to read as follows:

§ 52.237 Part D disapproval.

(a) * * *

(9) The contingency measure portion of the 2016 Moderate Area Plan for the 2012 PM_{2.5} Standard (“2016 PM_{2.5} Plan”), adopted September 15, 2016, as modified by the 2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards (“2018 PM_{2.5} Plan”), adopted November 15, 2018, for San Joaquin Valley as a Moderate nonattainment area with respect to the 2012 PM_{2.5} NAAQS.

(10) The contingency measure portion of the 2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards (“2018 PM_{2.5} Plan”), adopted November 15, 2018, for San Joaquin Valley with respect to the 2006 PM_{2.5} NAAQS.

* * * * *

4. Section 52.244 is amended by revising paragraph (f) introductory text and adding paragraph (f)(2) to read as follows:

§ 52.244 Motor vehicle emissions budgets.

* * * * *

(f) Approval of the motor vehicle emissions budgets for the following PM_{2.5} reasonable further progress or attainment SIPs will apply for transportation conformity purposes only until new budgets based on updated planning data and models have been submitted and EPA has found the budgets to be adequate for conformity purposes.

* * * * *

(2) San Joaquin Valley, for the 2012 PM_{2.5} NAAQS only (Year 2022 budgets only), approved [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

5. Section 52.245 is amended by adding paragraph (f) to read as follows:

§ 52.245 New Source Review rules.

* * * * *

(f) Within 18 months after the effective date of the reclassification of the San Joaquin Valley nonattainment area from Moderate to Serious for the 2012 PM_{2.5} NAAQS, the New Source Review rules for PM_{2.5} for the San Joaquin Valley Unified Air Pollution Control District must be revised and submitted as a SIP revision. The rules must satisfy the requirements of sections 189(b)(3) and 189(e) and all other applicable requirements of the Clean Air Act for implementation of the 2012 PM_{2.5} NAAQS in nonattainment areas classified as Serious.

6. Section 52.247 is amended by removing and reserving paragraph (f) and by adding paragraph (o).

The addition reads as follows:

§ 52.247 Control Strategy and regulations: Fine Particle Matter.

* * * * *

(o) Within 18 months after the effective date of the reclassification of the reclassification of the San Joaquin Valley nonattainment area from Moderate to Serious for the 2012 PM_{2.5} NAAQS, California must adopt and submit an emissions inventory and provisions to assure that BACM shall be implemented no later than four years after the date of reclassification. Also, by December 31, 2023, California must adopt and submit a Serious area plan that includes an attainment demonstration, a reasonable further progress plan, quantitative milestones, contingency measures, and such other measures as may be necessary or appropriate to provide for attainment of the 2012 PM_{2.5} NAAQS by the applicable attainment date, in accordance with the requirements of subparts 1 and 4 of part D, title I of the Clean Air Act.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

7. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Section 107 Attainment Status Designations

8. Section 81.305 is amended in the table under “California – 2012 Annual PM_{2.5}

NAAQS [Primary],” by revising the entry for “San Joaquin Valley, CA” to read as follows:

§ 81.305 California.

* * * * *

California - 2012 Annual PM_{2.5} NAAQS

[Primary]

Designated Area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * *	*	*	*	*
San Joaquin Valley, CA:				
Fresno County		Nonattainment	[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE <i>FEDERAL REGISTER</i>]	Serious.
Kern County (part) That portion of Kern County which lies west and north of a line described as follows: Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Libre Land Grant to the point of intersection with the range line common to Range 16 West and Range 17 West, San Bernardino Base and Meridian; north along the range line to the point of intersection with the Rancho El Tejon Land Grant boundary; then southeast, northeast, and northwest along the boundary of the Rancho El Tejon Land Grant to the northwest corner of Section 3, Township 11 North, Range 17 West; then west 1.2 miles; then north to the		Nonattainment	[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE <i>FEDERAL REGISTER</i>]	Serious.

<p>Rancho El Tejon Land Grant boundary; then northwest along the Rancho El Tejon Land Grant boundary line to the southeast corner of Section 34, Township 32 South, Range 30 East, Mount Diablo Base and Meridian; then north to the northwest corner of Section 35, Township 31 South, Range 30 East; then northeast along the boundary of the Rancho El Tejon Land Grant to the southwest corner of Section 18, Township 31 South, Range 31 East; then east to the southeast corner of Section 13, Township 31 South, Range 31 East; then north along the range line common to Range 31 East and Range 32 East, Mount Diablo Base and Meridian, to the northwest corner of Section 6, Township 29 South, Range 32 East; then east to the southwest corner of Section 31, Township 28 South, Range 32 East; then north along the range line common to Range 31 East and Range 32 East to the northwest corner of Section 6, Township 28 South, Range 32 East, then west to the southeast corner of Section 36, Township 27 South, Range 31 East, then north along the range line common to Range 31 East and Range 32 East to the Kern-Tulare County boundary.</p>				
Kings County		Nonattainment	[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE <i>FEDERAL REGISTER</i>]	Serious.
Madera County		Nonattainment	[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE <i>FEDERAL REGISTER</i>]	Serious.

			ON IN THE <i>FEDERAL REGISTER</i>	
Merced County		Nonattain ment	[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATI ON IN THE <i>FEDERAL REGISTER</i>	Serious.
San Joaquin County		Nonattain ment	[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATI ON IN THE <i>FEDERAL REGISTER</i>	Serious.
Stanislaus County		Nonattain ment	[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATI ON IN THE <i>FEDERAL REGISTER</i>	Serious.
Tulare County		Nonattain ment	[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATI ON IN THE <i>FEDERAL REGISTER</i>	Serious.
*	*	*	*	*

¹ Includes areas of Indian country located in each county or area, except as otherwise specified.

² This date is April 15, 2015, unless otherwise noted.

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